

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

DODSON AVIATION, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08-4102-KGS
)	
HLMP AVIATION CORP.,)	
PTC AVIATION CORP., and)	
1ST SOURCE BANK,)	
)	
Defendants.)	
_____)	

ORDER

This matter comes before the Court upon Defendant HLMP Aviation Corp.’s (“HLMP”) Third Motion to Modify Scheduling Order (Doc. 61), HLMP’s Fourth Motion to Modify Scheduling Order (Doc. 64), and Plaintiff’s Motion to Modify Scheduling Order to Allow Additional Time to Serve Rebuttal Expert Disclosures (Doc. 65). On November 18, 2009, the Court held a status conference with the parties to further clarify their positions with respect to the instant motions. For the reasons stated below, HLMP’s Third Motion to Modify Scheduling Order (Doc. 61) and Fourth Motion to Modify Scheduling Order (Doc. 64) are granted in part and denied in part. Plaintiff’s Motion to Modify Scheduling Order to Allow Additional Time to Serve Rebuttal Expert Disclosures (Doc. 65) is granted with modifications.

I. Background

In its Third Motion to Modify Scheduling Order, HLMP requests that the deadline for discovery be extended from October 19, 2009 until December 31, 2009. Further, HLMP seeks to extend the deadlines for: (1) HLMP’s expert disclosures from September 14, 2009 until January 20, 2010; (2) Plaintiff’s rebuttal expert disclosures from October 29, 2009 until February

20, 2010; and (3) expert depositions until March 15, 2010.¹ In support of its motion, HLMP states that there are outstanding discovery issues that need to be resolved, and its expert purportedly needs all fact discovery completed before he can opine on the value of the services provided by Plaintiff. In its Fourth Motion to Modify Scheduling Order, HLMP requests that the Court amend the Scheduling Order to increase the number of depositions from 10 to 25.

II. Analysis

The Court finds good cause exists to extend the discovery deadline in this case. Plaintiff only recently provided responses to HLMP's Second, Third, and Fourth Requests for Production.² These requests sought documents pertinent to both the value of the services allegedly performed by Plaintiff and HLMP's affirmative defense of off-set, which HLMP might need before deposing certain witnesses.³

HLMP also requests that the Court increase the number of depositions from 10 to 25. In its supplemental disclosures, Plaintiff listed 16 individuals who might be used to support Plaintiff's claims or defenses, including two individuals affiliated with HLMP.⁴ Based upon the number of Plaintiff's potential witnesses, the Court finds good cause to increase the number of depositions to 15.

IT IS THEREFORE ORDERED that Defendant HLMP Aviation Corp.'s ("HLMP")

¹ Extending these dates would also result in re-scheduling the pre-trial conference and extending the deadline for dispositive motions.

² Certificate of Service (Doc. 68).

³ See Mot. to Compel (Doc. 62), Exhibits A–C.

⁴ Def. HLMP Aviation Corp.'s ("HLMP") Third Mot. to Modify Scheduling Order (Doc. 61), Ex. C.

Third Motion to Modify Scheduling Order (Doc. 61) and HLMP's Fourth Motion to Modify Scheduling Order (Doc. 64) are hereby granted in part and denied in part. Plaintiff's Motion to Modify Scheduling Order to Allow Additional Time to Serve Rebuttal Expert Disclosures (Doc. 65) is granted with modifications.

IT IS FURTHER ORDERED that the Scheduling Order shall be amended as follows:

1. All fact discovery shall be commenced or served in time to be completed by **January 15, 2010.**
2. There shall be no more than **15** depositions by Defendant HLMP and **15** depositions by Plaintiff.
3. Disclosures required by Fed. R. Civ. P. 26(a)(2), including reports from retained experts, shall be served by Defendant HLMP by **January 29, 2010.** Disclosures and reports by Plaintiff's rebuttal expert shall be served by **March 5, 2010.**
4. Defendant HLMP shall make its expert available for deposition on or before **February 26, 2010.** Plaintiff shall make its expert available for deposition on or before **March 26, 2010.**
5. All other potentially dispositive motions (e.g., motions for summary judgment) shall be filed by **April 30, 2010.**
6. Pursuant to Fed. R. Civ. P. 16(d), a final pretrial conference is scheduled for **April 16, 2010 at 9:30 a.m.,** in the U.S. Courthouse, Room 470, 444 SE Quincy, Topeka, Kansas. Unless otherwise notified, the undersigned

magistrate judge will conduct the conference. No later than **April 9, 2010**, defendant shall submit the parties' proposed pretrial order (formatted in WordPerfect 9.0, or earlier version) as an attachment to an Internet e-mail sent to *ksd_sebelius_chambers@ksd.uscourts.gov*. The proposed pretrial order shall not be filed with the Clerk's Office. It shall be in the form available on the court's website (*www.ksd.uscourts.gov*), and the parties shall affix their signatures according to the procedures governing multiple signatures set forth in paragraphs II(C)(2)(a) & (b) of the *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means in Civil Cases*.

IT IS SO ORDERED.

Dated this 18th day of November, 2009, at Topeka, Kansas.

s/ K. Gary Sebelius
K. Gary Sebelius
U.S. Magistrate Judge